



DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: Adverse Effect Wage Rate for Range Occupations through 2016

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the new Adverse Effect Wage Rate (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H-2A workers) to perform herding or production of livestock on the range.

AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H-2A workers and workers in corresponding employment so that the wages of similarly employed U.S. workers will not be adversely affected. 20 CFR 655.100(b). In this notice, the Department announces the new AEWR for workers engaged in the herding or production of livestock on the range, as required by the methodology established in the Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States, 80 FR 62958, 63067-63068 (Oct. 16, 2015); 20 CFR 655.211.

DATES: EFFECTIVE DATE: This notice is effective November 16, 2015.

FOR FURTHER INFORMATION CONTACT: William W. Thompson, II, Acting Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Room C-4312, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-693-

3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

On October 16, 2015, the Department published regulations in the Federal Register establishing standards and procedures for employers seeking to hire foreign temporary agricultural workers for occupations involving the herding and production of livestock on the range. Temporary Agricultural Employment of H-2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States, 80 FR 62958 (Oct. 16, 2015) (H-2A Herder Rule). Effective for all work performed on or after November 16, 2015, including for work certified under earlier special procedures, the H-2A Herder Rule requires employers to offer, advertise in recruitment and pay each worker employed under 20 CFR 655.200-655.235 a wage that is at least the highest of: (i) the monthly AEWR, (ii) the agreed-upon collective bargaining wage, or (iii) the applicable minimum wage imposed by Federal or State law or judicial action. 20 CFR 655.211(a)(1). Further, when the monthly AEWR is adjusted during a work contract, and is higher than both the agreed-upon collective bargaining wage and the applicable minimum wage imposed by Federal or State law or judicial action in effect at the time the work is performed, the employer must pay that adjusted monthly AEWR upon publication by the Department in the Federal Register. 20 CFR 655.211(a)(2).

As provided in 20 CFR 655.211(c) of the H-2A Herder Rule, the methodology for establishing the monthly AEWR for range occupations in all states is based on the current Federal minimum wage (\$7.25/hour) multiplied by 48 hours per week, and then multiplied by

4.333 weeks per month. In applying the transition wage rate methodology set forth under 20 CFR 655.211(d)(1), the Department is setting the initial national monthly AEWR at 80 percent of the full wage calculated using the H-2A Herder Rule methodology. Thus, the national monthly AEWR rate for all range occupations in the H-2A program is calculated at $(7.25 \times 48 \times 4.333 \times .80 = 1,206.31)$ or \$1,206.31.¹

Accordingly, any employer certified or seeking certification for range workers must pay each worker a wage that is at least the highest of the monthly AEWR of \$1,206.31, the agreed-upon collective bargaining wage, or the applicable minimum wage imposed by Federal or State legislation or judicial action, effective immediately. Given the mid-month effective date of the new AEWR, the prorated amount due for employers obligated to pay the new AEWR for work performed for the portion of November following the effective date is \$603.15.

Portia Wu,
Assistant Secretary,
Employment and Training Administration.

Billing Code: 4510-FP-P

¹ Because less than two months remain in 2015, and the AEWR for workers engaged in the herding or production of livestock on the range announced in this notice applies through calendar year 2016 under 20 CFR 655.211(d), a separate notice will not be issued for 2016. Beginning with 2017, an updated AEWR will be published annually.

